

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

H. Katz

Plaintiff,

against

All That Glitter Inc  
Joe R MOGUS

Defendant(s)

## NOTICE OF MOTION

06 CV 0574  
[docket number] [judge's initials]

X

PLEASE TAKE NOTICE that upon the annexed affidavit or  
affirmation JOE R MOGUS sworn to or affirmed11/15, 2006 and upon the complaint herein,  
JOE R MOGUS HONORABLE DORIS LIZETTE IRIZARRY  
plaintiff will move this Court, (Judge's name) U.S.D.J.,in room United States Courthouse, Brooklyn, New York, 11201,  
on the 15th day of Nov., 2006, at (time) or as  
soon thereafter as counsel can be heard, for an order pursuant toRule of the Federal Rules of Civil Procedure granting  
by motion for exclusion of evidence  
in case 06CV05474 beyond time limitedDated: 11/15/06  
[county] New York[date] Benton, OregonJoe R MOGUS  
Joe R. MogusPLAINTIFF PRO SEMailing  
PO Box 422Cornville Oregon  
97333

Phone

541-929-5462

CC. Shmuel Klein Atty

From Original Complaint

4. Plaintiff also asserts actions under states' laws, which may be brought within the supplemental jurisdiction of this Court, and Plaintiff respectfully requests that this Honorable Court exercise supplemental jurisdiction over said claims. 28 U.S.C. 1367.

5. Venue is proper in this District as the Defendant resides in this judicial district. 28 U.S.C. 1391(b),(c).

6. Plaintiff requests a trial by jury.

7. ~~\*~~ Over the past six years Defendant did request and receive from Plaintiff, various items of gold jewelry for the purpose of inspection and to show to Defendant's customers.

8. Said jewelry was often sold and Defendant would pay Plaintiff for the sold items, however, numerous items of jewelry remained with Defendant.

9. Plaintiff did demand that Defendant pay for the outstanding items and at the time of this complaint; the total sum due was \$151,000.00, exclusive of any adjustment in the market fluctuations of the price of gold.

10. Defendant promised to pay the outstanding balance and did make periodic payments from time to time.

11. Demand for payment has been made by Plaintiff upon defendant and defendant has refused to pay.

### COUNT TWO

12. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this complaint in Count One with the same force and effect as if herein fully set forth.

13. Said sum due to plaintiff constitutes an account stated.

Exhibit  
A